

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. No. 100/886/2015

New Delhi this the 23rd day of November, 2016

HON'BLE MR. JUSTICE M.S. SULLAR, MEMBER (J)
HON'BLE MR. P.K. BASU, MEMBER (A)

Sh. Rocky, Ex.Driver, aged 32 yrs.,
B.No.26760, T.No.68765, EVN Depot,
Delhi Transport Corporation, Delhi,
S/o Sh. Suresh Kumar,
R/o. V&P: 57, Nai Wali Gali,
Tikri Khurad, Narela, Delhi-110040. ...Applicant

(Argued by: Mr. N. Gautam, Advocate with Ms. Swati Gautam,
Advocate)

VERSUS

1. The Chairman cum-MD,
Delhi Transport Corporation,
DTC Hqrs., I.P. Estate,
New Delhi-110002.
2. The Regional Manager (East),
Nand Nagri Depot,
Through CMD-DTC,
Delhi Transport Corporation,
I.P. Estate, N. Delhi-110002.
3. The Depot Manager,
East Vinod Nagar Depot,
D.T.C., Delhi-110091.
4. The Commissioner (Transport)
Transport Department, GNCT of Delhi,
5/9, Under Hill Road,
Delhi-110054. ...Respondents

(By Advocates: Mr. Mansih Garg for Respondent Nos.1 to 3
Ms. Ritika Chawla for Respondent No.4)

ORDER (ORAL)

Justice M. S. Sullar, Member (J)

The compendium of the facts and material, which
needs a necessary mention for the limited purpose of

deciding the core controversy involved in the instant Original Application (OA), and emanating from the record, is that, consequent upon clearing the selection process conducted by Delhi Subordinate Services Selection Board (for brevity "DSSSB"), the applicant was duly appointed on the post of Driver along with other Drivers in Delhi Transport Corporation (DTC), vide offer of appointment dated 08.11.2011 (Annexure A-4). His driving licence was verified at the time of recruitment by DSSSB, and then by DTC at the time of appointment. Having cleared his skill driving test and completed his probation period, he was duly confirmed on the said post by the DTC. Thereafter, he continuously discharged his duties efficiently for a long time.

2. Subsequently, in pursuance of some alleged communication/report of fake/bogus licences, the DTC issued him the charge sheet dated 06.08.2013 (Annexure A-7). In pursuance thereof, the applicant filed the reply dated 20.08.2013 (Annexure A-8). Considering the reply of the applicant, the charge sheet (Annexure A-7) was withdrawn by Depot Manager, vide order dated 05.09.2013 (Annexure A-10).

3. At the same time, the Depot Manager, issued impugned notice to the applicant on the same date, i.e., 05.09.2013 (Annexure A-11) to show cause as to why his

services be not terminated. The applicant filed the reply dated 16.09.2013 (Annexure A-12) to the Show Cause Notice (SCN).

4. The competent authority, without considering the issues raised in the reply to the SCN, terminated the services of the applicant in a very casual and routine manner, by way of very brief order dated 22.11.2013 (Annexure A-1), which reads as under:-

“DELHI TRANSPORT CORPORATION
EAST VINOD NAGAR ,DELHI-110091

EVND/AI(T)/Disc.34/13/3938

Dated:22-11-13

Shri Rocky S/o Shri Suresh Kumar, Driver B.No.26760, T.No.68765 was issued Show Cause Notice of “Termination from the services of the Corporation” vide No.EVND/AI(T)/Disc.34/13/3080 dated 05.09.2013 in response to the said Show Cause Notice he submitted the reply in his defence which was considered thoroughly by the undersigned but he has not raised any point which need to be considered afresh. The following punishment is therefore imposed upon him.

“He is hereby terminated from the services of the Corporation with immediate effect under para 9(a) (i) of the DRTA.

He is, required to deposited all the DTC articles within 24 hrs. after the receipt of the letter in the Livery Section failure to do so will render him liable to pay Rs.50/- per day. If, he keeps DTC articles in his possession and in case of deposit the report in lieu of DTC articles he should be liable penalty of Rs. 5000/- in accordance with Office Order No.3 dated 08-02-13.”

5. The appeals filed by the applicant were dismissed, vide impugned orders dated 03.02.2014 (Annexure A-2) and dated 02.09.2014 (Annexure A-3) by the Appellate Authorities (AAs).

6. Aggrieved thereby, the applicant has preferred the instant OA, challenging the impugned SCN and orders, invoking the provisions of Section 19 of the Administrative Tribunals Act, 1985, on the following grounds:-

A) That the impugned order had suffered from non-application of mind on the part of the respondent no.3; since impugned order dated 22.11.2013 issued without accepting the contention of STA Mathura office letter dated 24.08.2013 whereby STA Mathura not only hold the Driving License of applicant as genuine but also agreed that the said License issued to the applicant with a proper procedure.

B) That, this had been passed completely brushing aside the settled position of law. Since neither any enquiry nor any charge-sheet or opportunity was given to the applicant.

C) That, the action of the respondent is completely violated the principles of Natural Justice since non- of the authority applied their mind while rejected the appeal filed by the applicant contenting that STA Mathura vide their office letter dated 24.08.2013 hold the Driving License of applicant as genuine and further agreed that the said License issued to the applicant with a proper procedure.

D) That, law is well settled on the ground that every employer must ensure that before terminating the employment of any employee permanent or temporary must avail him/her an opportunity of being heard.

E) That, it is often said and indeed, adroitly, an organization public or private does not 'hire a hand' but engages or employs a whole man. The person is recruited by an organization not just for a job, but for a whole career. One must, therefore, be given an opportunity to advance. This is the oldest and most important feature of the free enterprise system. The opportunity for advancement is a requirement for progress of any organization. It is an incentive for personnel development as well.

F) That, applicant is out of employment from the date of his illegal termination from service and suffering a great financial bourdon. However, the respondent no.4/Special Commissioner of Transport who declared the Driving License of applicant as forged, without any reason is not in a hurry to pass any appropriate order till date despite the facts that verification from STA Mathura vide their office order dated 24.08.2013 in response to the respondent's verification letter dated 19.08.2013".

7. On the strength of the aforesaid grounds, the applicant seeks to quash the impugned SCN and orders, in the manner indicated hereinabove.

8. The contesting respondents have refuted the claim of the applicant and filed the reply, wherein it was pleaded that the services of the applicant were terminated in the wake of order of December, 2014 of Hon'ble High Court of Delhi, rendered in Public Interest Litigation (PIL) on the basis of report of Transport Authority, Mathura, regarding the fake licence of the applicant. Furthermore, it was

admitted in para 1.2(iv) that “surprisingly, Mathura Licensing Authority issued letter dated 24.08.2013 confirming the licence as valid. The applicant has not made Mathura Licensing Authority as party to the present proceeding”.

9. However, on merits, it was acknowledged, that applicant was appointed on the post of Driver, through the recruitment process conducted by DSSSB. He completed his probation period and was confirmed. It was reiterated, that since the driving licence, subsequently on verification of the applicant, was found to be bogus, so the impugned SCN and orders for terminating his services were rightly issued by the DTC. Virtually acknowledging the factual matrix and reiterating the validity of the impugned SCN & orders, the respondents have stoutly denied all other allegations & grounds contained in the OA and prayed for its dismissal. That is how we are seized of the matter.

10. From the pleadings of the parties, and during the course of arguments, the following four questions arise for our determination in this case:-

- (i) Whether the services of the confirmed Driver (applicant), can be terminated by issuing the impugned SCN or orders in a very casual manner and without holding any regular Departmental Enquiry (DE);

- (ii) Whether the impugned SCN or orders are smeared with stigma and punitive in nature;
- (iii) Whether DTC can discriminate the applicant, insofar as it has already issued proper charge sheet and started regular DEs against similarly situated persons/Drivers; and
- (iv) Whether the services of the applicant can legally be terminated by issuing very brief, vague SCN & orders, without application of mind and without holding an enquiry by the DTC.

11. We have heard the learned counsel for the parties and have gone through the record with their valuable help.

12. At the very outset, learned counsels for the parties are at *ad idem*, that all the four indicated questions were directly and substantially in issue and have already been adjudicated upon, in a bunch of OAs decided on 26.10.2016 in main **OA** bearing **No.100/2351/2015** titled as **Hari Om Singh Vs. DTC and Others** by this Tribunal. Thus, they fairly submitted that controversy involved in the present OA is squarely covered by indicated decision and the instant OA accordingly be also disposed of in the same terms.

13. What cannot possibly be disputed here, is that consequent upon clearing the selection process conducted by DSSSB, the applicant was duly appointed on the post of Driver in DTC. His driving licence was verified at the time of recruitment by DSSSB, and then by DTC at the time of

appointment. Having cleared his skill driving test and completed his probation period, he was duly confirmed on the said post by the DTC. Some of the similarly situated Drivers had earlier filed OAs challenging the similar SCNs and termination orders on the same very/similar grounds. The DTC has defended its action (therein) on the similar grounds pleaded in the present OA.

14. Meaning thereby, the controversy involved in the instant OA is directly and substantially identical and decided in **Hari Om Singh's case** (supra) by this Tribunal, relying upon the judgments of Hon'ble Apex Court in cases **Kamal Narayan Mishra Vs. State of M.P. (2010) 2 SCC 169, Avtar Singh Vs. U.O.I. & Others in SLP (C) No.20525/2011** decided on 21.07.2016, **Ratnesh Kumar Choudhary Vs. Indira Gandhi Institute of Medical Sciences, Patna, Bihar and Others JT 2015 (9) 363, Man Singh Vs. State of Haryana and others AIR 2008 SC 2481, Rajendra Yadav Vs. State of M.P. and Others 2013 (2) AISLJ 120, Chairman, Disciplinary Authority, Rani Lakshmi Bai Kshetriya Gramin Bank Vs. Jagdish Sharan Varshney and Others (2009) 4 SCC 240, Divisional Forest Officer Vs. Madhuusudan Rao JT 2008 (2) SC 253** and Hon'ble High Court of Delhi in a bunch of Writ Petitions decided on 14.07.2014 along with main case **Suresh Chand and Another Vs. DTC W.P. (C) No.4212/2014**. Therefore, the present OA also deserves to be allowed in the same terms.

15. In the light of the aforesaid reasons, and without commenting further anything on merits, lest it may prejudice the case of either side, during the course of regular DE, the OA is hereby partly accepted in view of the ratio of law laid down in **Hari Om Singh's case** (supra). As a consequence thereof, the impugned SCN dated 05.06.2013, impugned orders dated 22.11.2013 (Annexure A-1) by the competent authority, dated 03.02.2014 (Annexure A-2) and dated 02.09.2014 (Annexure A-3) by the AAs are set aside. The applicant is ordered to be reinstated in service forthwith. All the terms and conditions will also apply in the instant OA, in the same manner and terms, as has been held in the operative para (para 50) in **Hari Om Singh's case** (surpa) of this Tribunal. However, the parties are left to bear their own costs.

(P.K. BASU)
MEMBER (A)

(JUSTICE M.S. SULLAR)
MEMBER (J)
23.11.2016

Rakesh